

IMMEDIATE RELEASE

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Governor, State officials comment to EPA, Army on proposed Waters of the U.S. identification guidance

Topeka— Kansas Governor Sam Brownback, along with the state's water-related agencies directly impacted by the federal government's proposed Clean Water Act guidance, submitted a letter last week urging the Environmental Protection Agency and the U.S. Army Corps of Engineers to forego implementation of the unnecessary federal guidance.

The Governor and the Secretaries for Kansas Departments of Health and Environment; Agriculture; Wildlife, Parks and Tourism; and Commerce, as well as Tracy Streeter, Director of the Kansas Water Office, are concerned that the guidance, as proposed, attacks the state's rights to define and manage its streams.

The EPA and the Corps published for comment the guidance proposed in the Federal Register on May 2nd. It describes how the two agencies will identify waters protected by the Federal Water Pollution Control Act Amendments of 1972, or the Clean Water Act. This is likely to increase the number of waters currently identified in the *Waters of the United States*.

In his letter, Governor Brownback wrote that Kansas' laws protect all state waters and an increase in the scope as proposed by the federal government is an unwarranted infringement on the state's rights.

"Implementing this proposed federal guidance would usurp a large portion of the state's authority to protect its waters," Brownback said. "Kansas has adopted laws protecting its waters, and I urge the EPA and the Army Corps of Engineers to take into consideration the undue burden their proposed guidance will place on the Kansas agencies responsible for protecting public health and the environment as well as animal and aquatic life."

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State officials agree that Kansas laws are adequately protecting *Waters of the State* while the EPA's proposed authority will include currently non-jurisdictional waters that only flow in response to precipitation runoff and are above the water table.

"Kansas is positioned to sufficiently protect its waters, and the proposed guidance lacks common sense application of the intent of the Clean Water Act. If the state's ephemeral streams—which are currently either void of water or covered by farm land—are to be a part of the proposed federally mandated program, the State of Kansas will be forced to stretch its limited resources to set standards and issue permits for such waters," said Dr. Robert Moser, Secretary for Kansas Department of Health and Environment.

While the EPA and the Corps have issued no expected timeline for the joint guidance to take effect, the State of Kansas believes the proposed identification of U.S. waters pursuant to the Clean Water Act is not needed in Kansas.

"I applaud the Governor standing up for Kansas against this attempt at overregulation by a federal bureaucracy," said Kansas Secretary of Agriculture Dale Rodman.

The public comment period for the draft guidance on Identifying Waters Protected by the Clean Water Act ends on July 31, 2011.

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